

REMARKS

Claims 1-48 are pending. Claims 1, 9, 10, 16, 18, 25, 26, 27, 34, and 44 have been amended. Claims 11-13, 19-24, 30, 31, 38-40, 45, and 47 have been canceled. Claims 49 and 50 have been added. Following entry of the amendments, claims 1-10, 14-18, 25-29, 32-37, 41-44, 46, and 48-50 will be pending.

Applicant respectfully requests that the foregoing amendments be made prior to further examination of the present application, and respectfully requests reconsideration of the present application in view of the foregoing amendments and the reasons that follow. This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, along with appropriate defined status identifiers.

The examiner rejected claims 16-19, 39 and 40 under the second paragraph of Section 112. Claims 16 and 18 have been amended to address the lack of antecedent basis for "domestic animal," and claims 19, 39 and 40 have been canceled. Reconsideration and withdrawal of the Section 112 rejection is respectfully requested.

Claims 1-5, 7-9, 11, 12, 15-29, 32-35 and 37-46 are rejected under Section 103(a) based on US 5,776,456 in view of US 5,837,242 and Rybak *et al.* The examiner maintains that the '456 patent discloses "therapeutic methods designed for the treatment of B cell disorders, B cell lymphomas" and that these methods are applicable to primates and are not limited to humans. In this regard, the examiner cites column 5, lines 7-23. The cited portions states that "what is needed... are therapeutic approaches targeting the CD20 antigen for the treatment of B cell lymphoma in primates, including, but not limited to humans." Previously, in the Official Action dated September 13, 2004, the examiner alleged that "the ['456] patent sets forth that the disclosed treatment of B cell lymphomas targeting the CD20 antigen is not limited to non-human primates" (page 7 at the bottom). In the current Action, the examiner admits that the '456 patent does not teach a method of treating the animals recited in claim 1, but urges that there is "suggestion in the patent to apply the taught method to additional animals." However, the cited portion of the '456 patent does not suggest extending to additional animals beyond primates. This is quite clear in the statement "in primates, including, but not limited to humans." When the '456 patent suggests a treatment scope beyond humans, it only suggests the order of primates, and does not go beyond that to suggest the class of mammals, and, more particularly, it fails to suggest the animals currently recited in claim 1. Moreover, the immune systems of primate share more in common with each other than the immune systems of primates share with other animals, such as those listed in claim 1. Therefore, the statement that the '456 patent suggests extending to animals beyond primates, to those animals recited in applicant's claims, is not supported by the clear statements in the '456 patent or by common knowledge in the art relative to differences between the immune systems of primates and those of non-primates. Rybak *et al.* and the '242 patent are cited for secondary

features, and do not overcome the failure of '456 to suggest treatment of the animals enumerated in claim 1. There is no *prima facie* case of obviousness based on the combination of '456, '242 and Rybak *et al.* Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1-27, 31 and 34-48 are rejected under Section 103(a) based on US 5,776,456 in view of US 6,217,869. The failure of the '456 patent to suggest treatment of animals other than primates is noted above. The '869 patent is cited for a secondary feature, and does not overcome the failure of '456 to suggest treatment of the animals enumerated in claim 1. There is no *prima facie* case of obviousness based on the combination of the '456 and '869 patents. Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1, 2, 8, 9, 11, 12, 16, 19-24, 26, 30 and 44 are rejected under Section 103(a) based on US 5,776,456 in view of Javid *et al.* The failure of the '456 patent to suggest treatment of animals other than primates is noted above. Javid *et al.* is cited for a secondary feature, and does not overcome the failure of '456 to suggest treatment of the animals enumerated in claim 1. There is no *prima facie* case of obviousness based on the combination of the '456 patent and Javid *et al.* Reconsideration and withdrawal of this rejection is respectfully requested.

If there are any problems with this response, or if the examiner believes that a telephone interview would advance the prosecution of the present application, Applicant's attorney would appreciate a telephone call. In view of the foregoing, it is believed none of the references, taken singly or in combination, disclose the claimed invention. Accordingly, this application is believed to be in condition for allowance, the notice of which is respectfully requested.

Respectfully submitted,

ROSSI, KIMMS & McDOWELL LLP

JUNE 26, 2007
DATE

/BARBARA A. McDOWELL/
BARBARA A. McDOWELL
REG. NO. 31,640

P.O. Box 826
ASHBURN, VA 20146-0826
703-726-6020 (PHONE)
703-726-6024 (FAX)